

11 SEP 1974

Executive Registry

74-4800

MEMORANDUM FOR: Director of Central Intelligence
VIA : Deputy Director of Central Intelligence
FROM : Deputy Director for Administration
SUBJECT : Delegation of Authority to Waive Ninety
Percent Salary Limitation [REDACTED]

STATINTL

1. Action Requested: This memorandum requests delegation of authority to the Deputy Director for Administration to approve requests for exceptions to the ninety percent salary limitation payable under [REDACTED] to civilian annuitants rehired as contract employees or independent contractors.

2. Basic Data or Background: In December 1967, the Agency adopted a policy concerning the utilization of retired Agency employees, other retired U. S. Government civilian employees, and retired military officers. Briefly that policy which is now stated [REDACTED] dated 29 October 1971, contains two significant factors. One concerns the employment in a staff status of a retiree and limits that appointment to the month in which the employee attains age 60. That policy is contained in paragraphs 13 a(1)(a) and (b) which are quoted:

"13. SPECIAL CONSIDERATIONS IN HIRING OR USING THE SERVICES OF CERTAIN INDIVIDUALS

a. RETIRED AGENCY EMPLOYEES, OTHER RETIRED U. S. GOVERNMENT CIVILIAN EMPLOYEES, AND RETIRED MILITARY OFFICERS

(1) POLICY

(a) Retired Agency employees, other retired U. S. Government civilian employees, and retired military officers, whose retirement is based on service may be hired to meet only those requirements that cannot be filled either by the internal reassignment or training of on-duty personnel, or by the recruitment of new employees who are qualified and who may be expected to serve a considerable number of years with the agency.

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- (b) A retiree whose retirement is based on service and who is being employed in staff status will be given either a temporary or reserve appointment as defined [redacted]. The appointment, including any renewals or extensions, may not extend the duration of the retiree's employment beyond the month in which he attains age 60." STATINTL

The other significant factor, delineated in paragraph 13 a(1)(c), concerns the amount of compensation payable to a rehired annuitant. It states that when a former civilian Government employee who retired for length of service is reemployed in staff status under a temporary or reserve appointment, his annuity normally continues but his salary is reduced by the amount of the annuity received. However, in the case of an annuitant hired under contract, the salary payments plus his annuity may not exceed the pay rate of the step closest to 90 percent of the current salary of the individual's grade and step at the time of his retirement.

This memorandum deals with the 90 percent salary limitation applied to annuitants rehired as contract employees and independent contractors.

Over the years since the adoption of the 90 percent compensation limitation in 1967, the few requests for exception to this rule have been addressed to the DCI for approval, though the regulation is silent on the approval level for exceptions. The provision [redacted] actually dealing with exceptions which must be approved by the DCI deals only with the age requirement as outlined in paragraph 1. of this memorandum. Paragraph 13 a(3) of the regulation states: STATINTL

- "(3) EXCEPTIONS. Exceptions to the age limitation in subparagraph a(1)(b) above and the policy of limiting appointments of retirees to temporary and reserve employees status will be granted only when the individual possesses rare and outstanding qualifications needed by the Agency. Requests for exceptions must be justified by the Head of the Career Service concerned and will be forwarded to the Director of Personnel. The Director of Personnel will forward all such requests along with his recommendation to the Director for approval."

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Although as indicated above there have been relatively few requests for exceptions to the 90 percent limitation by operating components, those requests historically were, for the most part, approved by the then Executive Director-Comptroller on behalf of the DCI. The question now arises, in view of there no longer being an Executive Director-Comptroller, whether the intent [redacted] actually requires the DCI's personal approval of an exception insofar as compensation is affected. In my opinion, the intent of the regulation was to require the DCI's approval only as it applies to the age limitation and not to compensation.

STATINTL

3. Staff Position: This proposal has the concurrence of the Director of Personnel. A representative of the Office of General Counsel has stated that there is no legal objection to this authority being delegated to the Deputy Director for Administration.

4. Recommendation: In order to clarify the proper level for approving an exception to the 90 percent salary limitation, it is recommended that specific authority for this approval be delegated to the Deputy Director for Administration.

FOIAB3B

[redacted]
John N. McMahon
Acting Deputy Director
for
Administration

FOIAB3B

APPROVED: _____

16 SEP 1974

DISAPPROVED: _____

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